

ESHB 2954 - S COMM AMD

By Committee on Ways & Means

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.51.050 and 1991 sp.s. c 8 s 1 are each amended to read as follows:

(1)(a) Upon receipt of an application for a license, the department shall issue a license if the applicant and the nursing home's facilities meet the requirements established under this chapter, except that the department shall issue a temporary license to a court-appointed receiver for a period not to exceed six months from the date of appointment((. Prior to the issuance or renewal of the license, the licensee shall pay a license fee as established by));

(b) The department shall, by rule, set an annual per bed license fee to be paid upon application for a nursing home license and upon license renewal. The annual license fee shall be set in an amount sufficient to fully fund, but not exceed, the costs of the licensure, inspection, and regulation of nursing homes. Beginning July 1, 2011, prior to proposing any changes to the license fee, the department shall ensure that it has examined the licensure, inspection, and regulatory activities, that the department is operating an efficient and cost-effective program, and that the adjustment in fees is necessary for the continued operation of the program. No fee shall be required of government operated institutions or court-appointed receivers((.));

((All licenses issued under the provisions of this chapter)) (c) A license issued under this chapter shall not exceed thirty-six months in duration, and it shall expire on a date ((to be)) set by the department((, but no license issued pursuant to this chapter shall exceed thirty-six months in duration.)); and

((When)) (d) In the event of a change of ownership ((occurs)), the ((entity becoming the licensed operating entity of the facility shall pay a fee established by the department at the time of application for

~~the license. The previously determined date of license expiration shall not change. The department shall establish license fees at an amount adequate to reimburse the department in full for all costs of its licensing activities for nursing homes, adjusted to cover the department's cost of reimbursing such fees through medicaid))~~
previously established license expiration date shall not change. The proposed licensee must ensure payment of any unpaid portion of the license fee, pending the next scheduled license renewal date.

(2) All applications and fees for renewal of the license shall be submitted to the department not later than thirty days prior to the date of expiration of the license. All applications and fees, if any, for change of ownership ~~((licenses))~~ shall be submitted to the department not later than sixty days before the date of the proposed change of ownership. ~~((Each))~~ A nursing home license shall be issued only to the ~~((operating entity and those persons named in the license application))~~ person that applied for the license. The license is valid only for the operation of the facility at the location specified in the license application. Licenses are not transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 2. RCW 18.20.050 and 2004 c 140 s 1 are each amended to read as follows:

(1)(a) Upon receipt of an application for license, if the applicant and the boarding home's facilities meet the requirements established under this chapter, the department shall issue a license. If there is a failure to comply with the provisions of this chapter or the ~~((standards and))~~ rules adopted ~~((pursuant thereto))~~ under this chapter, the department may in its discretion issue a provisional license to an applicant for a license, or for the renewal of a license~~((-a))~~. A provisional license ~~((which))~~ will permit the operation of the boarding home for a period to be determined by the department, but not to exceed twelve months~~((-which provisional license))~~ and shall not be subject to renewal. The department may also place conditions on the license under RCW 18.20.190. ~~((At the time of the application for or renewal of a license or provisional license the licensee shall pay a license fee as established by the))~~

1 (b) The department ((under RCW 43.20B.110)) shall, by rule, set an
2 annual per bed license fee to be paid upon application for a boarding
3 home license and upon license renewal. The annual license fee shall be
4 set in an amount sufficient to fully fund, but not exceed, the costs of
5 the licensure, inspection, and regulation of boarding homes. Beginning
6 July 1, 2011, prior to proposing any changes to the license fee, the
7 department shall ensure that it has examined the licensure, inspection,
8 and regulatory activities, that the department is operating an
9 efficient and cost-effective program, and that the adjustment in fees
10 is necessary for the continued operation of the program.

11 ~~((All licenses issued under the provisions of this chapter shall~~
12 ~~expire on a date to be set by the department, but no license issued~~
13 ~~pursuant to this chapter shall exceed twelve months in duration.~~
14 ~~However, when the annual license renewal date of a previously licensed~~
15 ~~boarding home is set by the department on a date less than twelve~~
16 ~~months prior to the expiration date of a license in effect at the time~~
17 ~~of reissuance, the license fee shall be prorated on a monthly basis and~~
18 ~~a credit be allowed at the first renewal of a license for any period of~~
19 ~~one month or more covered by the previous license.))~~ (c) A license
20 issued under this chapter shall not exceed twelve months in duration
21 and it shall expire on a date set by the department. A boarding home
22 license shall be issued only to the person that applied for the
23 license. All applications for renewal of a license shall be made not
24 later than thirty days prior to the date of expiration of the license.
25 Each license shall be issued only for the premises and persons named in
26 the application, and no license shall be transferable or assignable.
27 Licenses shall be posted in a conspicuous place on the licensed
28 premises.

29 (2) A licensee who receives notification of the department's
30 initiation of a denial, suspension, nonrenewal, or revocation of a
31 boarding home license may, in lieu of appealing the department's
32 action, surrender or relinquish the license. The department shall not
33 issue a new license to or contract with the licensee, for the purposes
34 of providing care to vulnerable adults or children, for a period of
35 twenty years following the surrendering or relinquishment of the former
36 license. The licensing record shall indicate that the licensee
37 relinquished or surrendered the license, without admitting the

1 violations, after receiving notice of the department's initiation of a
2 denial, suspension, nonrenewal, or revocation of a license.

3 (3) The department shall establish, by rule, the circumstances
4 requiring a change in licensee, which include, but are not limited to,
5 a change in ownership or control of the boarding home or licensee, a
6 change in the licensee's form of legal organization, such as from sole
7 proprietorship to partnership or corporation, and a dissolution or
8 merger of the licensed entity with another legal organization. The new
9 licensee is subject to the provisions of this chapter, the rules
10 adopted under this chapter, and other applicable law. In order to
11 ensure that the safety of residents is not compromised by a change in
12 licensee, the new licensee is responsible for correction of all
13 violations that may exist at the time of the new license.

14 (4) The department may deny, suspend, modify, revoke, or refuse to
15 renew a license when the department finds that the applicant or
16 licensee or any partner, officer, director, managerial employee, or
17 majority owner of the applicant or licensee:

18 (a) Operated a boarding home without a license or under a revoked
19 or suspended license; or

20 (b) Knowingly or with reason to know made a false statement of a
21 material fact (i) in an application for license or any data attached to
22 the application, or (ii) in any matter under investigation by the
23 department; or

24 (c) Refused to allow representatives or agents of the department to
25 inspect (i) the books, records, and files required to be maintained, or
26 (ii) any portion of the premises of the boarding home; or

27 (d) Willfully prevented, interfered with, or attempted to impede in
28 any way (i) the work of any authorized representative of the
29 department, or (ii) the lawful enforcement of any provision of this
30 chapter; or

31 (e) Has a history of significant noncompliance with federal or
32 state regulations in providing care or services to vulnerable adults or
33 children. In deciding whether to deny, suspend, modify, revoke, or
34 refuse to renew a license under this section, the factors the
35 department considers shall include the gravity and frequency of the
36 noncompliance.

37 (5) The department shall serve upon the applicant a copy of the
38 decision granting or denying an application for a license. An

1 applicant shall have the right to contest denial of his or her
2 application for a license as provided in chapter 34.05 RCW by
3 requesting a hearing in writing within twenty-eight days after receipt
4 of the notice of denial.

5 **Sec. 3.** RCW 70.128.060 and 2009 c 530 s 5 are each amended to read
6 as follows:

7 (1) An application for license shall be made to the department upon
8 forms provided by it and shall contain such information as the
9 department reasonably requires.

10 (2) Subject to the provisions of this section, the department shall
11 issue a license to an adult family home if the department finds that
12 the applicant and the home are in compliance with this chapter and the
13 rules adopted under this chapter, unless (a) the applicant or a person
14 affiliated with the applicant has prior violations of this chapter
15 relating to the adult family home subject to the application or any
16 other adult family home, or of any other law regulating residential
17 care facilities within the past five years that resulted in revocation,
18 suspension, or nonrenewal of a license or contract with the department;
19 or (b) the applicant or a person affiliated with the applicant has a
20 history of significant noncompliance with federal, state, or local
21 laws, rules, or regulations relating to the provision of care or
22 services to vulnerable adults or to children. A person is considered
23 affiliated with an applicant if the person is listed on the license
24 application as a partner, officer, director, resident manager, or
25 majority owner of the applying entity, or is the spouse of the
26 applicant.

27 (3) The license fee shall be submitted with the application.

28 (4) The department shall serve upon the applicant a copy of the
29 decision granting or denying an application for a license. An
30 applicant shall have the right to contest denial of his or her
31 application for a license as provided in chapter 34.05 RCW by
32 requesting a hearing in writing within twenty-eight days after receipt
33 of the notice of denial.

34 (5) The department shall not issue a license to a provider if the
35 department finds that the provider or spouse of the provider or any
36 partner, officer, director, managerial employee, or majority owner has

1 a history of significant noncompliance with federal or state
2 regulations, rules, or laws in providing care or services to vulnerable
3 adults or to children.

4 (6) The department shall license an adult family home for the
5 maximum level of care that the adult family home may provide. The
6 department shall define, in rule, license levels based upon the
7 education, training, and caregiving experience of the licensed provider
8 or staff.

9 (7) The department shall establish, by rule, standards used to
10 license nonresident providers and multiple facility operators.

11 (8) The department shall establish, by rule, for multiple facility
12 operators educational standards substantially equivalent to recognized
13 national certification standards for residential care administrators.

14 (9) ~~((The license fee shall be set at one hundred dollars per year~~
15 ~~for each home. An eight hundred dollar processing fee shall also be~~
16 ~~charged each home when the home is initially licensed. The processing~~
17 ~~fee will be applied toward the license renewal in the subsequent three~~
18 ~~years. A five hundred dollar rebate will be returned to any home that~~
19 ~~renews after four years in operation.))~~ The initial processing and
20 annual renewal license fees shall be established by the legislature in
21 the biennial budget act for fiscal year 2011. Effective July 1, 2011,
22 the department shall, by rule, establish initial processing and annual
23 license fees for an adult family home license. The initial processing
24 and annual license fee shall be set in an amount sufficient to fully
25 fund, but not exceed, the costs of the licensure, inspection, and
26 regulation of adult family homes. Beginning July 1, 2012, prior to
27 proposing any changes to the license fee, the department shall ensure
28 that it has examined the licensure, inspection, and regulatory
29 activities, that the department is operating an efficient and cost-
30 effective program, and that the adjustment in fees is necessary for the
31 continued operation of the program.

32 (10) A provider who receives notification of the department's
33 initiation of a denial, suspension, nonrenewal, or revocation of an
34 adult family home license may, in lieu of appealing the department's
35 action, surrender or relinquish the license. The department shall not
36 issue a new license to or contract with the provider, for the purposes
37 of providing care to vulnerable adults or children, for a period of
38 twenty years following the surrendering or relinquishment of the former

1 license. The licensing record shall indicate that the provider
2 relinquished or surrendered the license, without admitting the
3 violations, after receiving notice of the department's initiation of a
4 denial, suspension, nonrenewal, or revocation of a license.

5 (11) The department shall establish, by rule, the circumstances
6 requiring a change in the licensed provider, which include, but are not
7 limited to, a change in ownership or control of the adult family home
8 or provider, a change in the provider's form of legal organization,
9 such as from sole proprietorship to partnership or corporation, and a
10 dissolution or merger of the licensed entity with another legal
11 organization. The new provider is subject to the provisions of this
12 chapter, the rules adopted under this chapter, and other applicable
13 law. In order to ensure that the safety of residents is not
14 compromised by a change in provider, the new provider is responsible
15 for correction of all violations that may exist at the time of the new
16 license.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20A RCW
18 to read as follows:

19 (1) It is the intent of the legislature that the costs of each
20 long-term care facility licensing and regulatory program be fully borne
21 by the facilities. With the information provided in the report under
22 subsection (2) of this section, the legislature intends to identify the
23 licensing fees for each facility that would be sufficient to defray the
24 costs of administering the licensing and regulatory program for those
25 facilities.

26 (2) Beginning December 1, 2010, and annually thereafter, the
27 department shall provide a licensing fee report to the legislature on
28 nursing homes, boarding homes, and adult family homes. The report
29 shall include:

30 (a) Information on initial licensing including but not limited to:

31 (i) The number of initial facility inspections; and
32 (ii) The number of initial licensing follow-up inspections by
33 facility type;

34 (b) Information on licensing renewals, including but not limited
35 to:

36 (i) The number of licensing renewal full inspections;
37 (ii) The number of follow-up inspections; and

1 (iii) The average length of time between renewal inspections by
2 facility type;

3 (c) Information on complaint investigations including but not
4 limited to:

5 (i) The total number of complaint investigations by facility type;

6 (ii) The number of complaint investigations by priority and
7 facility type; and

8 (iii) The percent of complaints per bed by facility type; and

9 (d) Information on licensing and regulatory costs for the previous
10 fiscal year including but not limited to:

11 (i) The total costs for licensing and regulatory activities by
12 facility type;

13 (ii) The percentage of total state operating costs for licensing
14 and regulatory activities that are covered through licensing fees; and

15 (iii) The estimated fee amount that would be needed in order to
16 cover the total state costs of licensing and regulatory activities, by
17 facility type.

18 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2010."

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19 On page 1, line 2 of the title, after "homes;" strike the remainder
20 of the title and insert "amending RCW 18.51.050, 18.20.050, and
21 70.128.060; adding a new section to chapter 43.20A RCW; and providing
22 an effective date."

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